

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

HAMLITON COUNTY TREASURER,

Case No. 1:16-cv-1114

Plaintiff,

v.

Black, J.
Bowman, M.J.

DERRYN N. NESBITT, et al.,

Defendants.

REPORT AND RECOMMENDATION

On December 9, 2016, the undersigned recommended that this improperly removed state foreclosure action be remanded. On December 22, 2016 the undersigned filed a Supplemental R&R that clarified that remand was recommended to the Hamilton County Board of Revision (the body from which the Defendants improperly had removed this litigation).

On January 11, 2017, the presiding district judge adopted the R&R, as corrected, and judgment was filed remanding this case to the Hamilton County Board of Revision. (Docs. 10, 11). The Judgment directed Defendants to pay \$100.00 to the Clerk of Court as a sanction for filing a wholly frivolous petition of removal in this case, and denied Plaintiffs leave to appeal *in forma pauperis*.

On February 8, 2017, the pro se Defendants filed a 21-page document that has been docketed as an "Affirmed Motion Under Fed R. Civ. P. 59 altering, amended a judgment and writs of error coram nobis and coram vobis from the order remanding case to state court which violates the Supreme Law of the Bible and Constitution of the United States of America and Ohio, and requesting finding of facts and conclusion for appeal against and injunction staying proceeding in state court." (Doc. 13). The arguments contained in Defendants'

latest motion(s) are wholly frivolous and largely repetitive of prior arguments made in this case. To that extent, the undersigned finds no need to discuss them.

A portion of Defendants' current arguments rest upon the mistaken assumption that the undersigned United States Magistrate Judge is not authorized to issue any Report and Recommendations. Defendants presented similar arguments in 37 pages of objections to the prior R&Rs, which objections were overruled by the district judge on January 11, 2017. This case was (and continues to be) properly referred to the undersigned magistrate judge under 28 U.S.C. § 636(b), which does not require consent. Only referral under 28 U.S.C. § 636(c) requires the consent of the parties.

Accordingly, **IT IS RECOMMENDED THAT** Defendants' latest frivolous motion (Doc. 13) be **DENIED IN FULL**. As this case is closed and remanded, **IT IS FURTHER RECOMMENDED THAT** the presiding district judge summarily deny as vexatious any further filings made by Defendants concerning the above-captioned case, other than a single set of objections that Defendants are permitted to file within fourteen days of this Report and Recommendation.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).